25th October, 1962", the words figures, and letters "or on the 3rd, December 1971" shall be inserted.

9. **Amendment of section 23.**—In sub-section (3) of section 23 of the principal Act, for the words "or in two successive sessons and if, before the expiry of the session in which it is so laid or the session immediately following", th words "or in two or more successive sessions and if, before the expiry of the session immediately following the session or the successive sessions aforesaid" shall be substituted.

10. **Amendment of section 24.**—Section 24 of the principal Act shall be renumbered as sub-section (1) thereof and after that sub-section as so renumbered, the following sub-section shall be inserted, namely :—

"(2) Every order which was made under the Defence of India Rules, 1971 by the Central Government or by the Custodian of Enemy Property for India appointed under thos Rules relating to enemy property and which was in force immediately before the expiration thereof shall, in so far as such order is not inconsistent with the provisions of this Act, be deemed to continue in force and to have been made under this Act."

11. **Repeal and saving** —(1) The Enemy Property (Amendment) Ordinance, 1977 (11 of 1977) is hereby repealed.

(2) Not wit standing such repeal, anything done or any action taken under the principal Act, as amended by the said Ordinance, shall be deemed to have been done or taken under the principal Act as amended by this Act.

Notification No. LAW 11 LCA 78.

Bangalore, dated 2nd February 1978.

Ordered that the Payment of Bonus (Amendment) Act, 1977 (No. 43 of 1977) published in Part II, Section 1 of the *Gazette of India*, Extraordinary dated 24th Decemeber 1977 be republished in the *Karnataka Gazette* for general information.

By Order and in the name of the President of India,

A. NEELAKANTARYA,
Under Secretary to Government,
Department of Law and Parly. Affairs.

41

Assented to on ..... (Act No. 43 of 1977)

THE PAYMENT OF BONUS (AMENDMENT) ACT, 1977

(AS PASSED BY THE PARLIAMENT)

AN

ACT

further to amend the Payment of Bonus Act, 1965

BE it enacted by Parliament in the Twenty-eighth Year of the Republic of India as follows :—

1. Short title and commencement.—(1) This Act may be called the Payment of Bonus (Amendment Act, 1977.

(2) It shall be deemed to have come into force on the 3rd day of September, 1977.

2. Act 21 of 1965 to have modified effect for a particular period.—The Payment of Bonus Act, 1965 (hereinafter referred to as the principal Act) shall,—

(a) in relation to a factory or other establishment to which the principal Act applies immediatly before the commencement of this Act ; and

(b) in relation to a banking company and the Industrial Reconstruction Corporation of India to which the principal Act applies on and from such commencement by virtue of this Act,

have effect in respect of the accounting year commencing on any day in the year 1976 as if the amendments specified in sections 3 to 20 had been made in that Act.

Explanation.—In this section, the expressions "banking company" and "accounting year shall have the meanings respectively assigned to them in clauses (8) and (1) of section 2 of the principal Act.

3. Substitution of long title.—In the principal Act, for the long title the following long title shall be substituted, namely :—

"An Act to provide for the payment of bonus to persons employed in certian establishments and for matters connected therewith.".

4. Amendment of section 2.—In section 2 of the principal Act, Act, in sub-clause (a) of clause (4), after the words "being a company", the brackets and words "(other than a banking company)," shall be inserted.

5. Substitution new section for section 4. Computation of gross profits.—For section 4 of the principal Act, the following section shall be substituted, namely :—

"4. The gross profits derived by an employer from an establishment in respect of the amounting year shall—

(a) in the case of a banking company, be calculated in the manner specified in the First Schedule ;

(b) in any other case, be calculated in the manner specified in the Second Schedule.".

6. Amendment of section 6.—In section 6 of the principal Act,—

(a) in clause (b), for the words "development rebate or development allowance", the words "development rebate or invest-

ment allowance", the words "development rebat or investment allowance or development allowance" shall be substituted;

(b) in clause (d), for the words "Second Schedule" the words "Third Schedule" shall be substituted.

7. Amendment of section 7.—In section 7 of the principal Act in clause (e), for the brackets and words "(other than development rebate or development allowance)", the brackets and words "(other than development rebate or investment allowance or development allowance," shall be substituted.

8. Amendment of section 10.—In section 10 of the principal Act,—

(*a*) after sub-section (2), the following sub-section shall be inserted, namely :—

'(2A) Notwithstanding anything contained in sub-section (1) regarding the payment of minimum bonus, but subject to the other provisions of this Act, every employer shall be bound to pay to every employee a minimum bonus which shall be 8.33 per cent. of the salary or wage earned by the employee during the accounting year or one hundred rupees, whichever is higher, whether or not the employer has any allocable surplus in the accounting year:

Provided that where an employee has not completed fifteen years of age at the beginning of the accounting year, the provisions of this sub-section shall have effect in relation to such employee as if for the words "one hundred rupees", the words "sixty rupees" were substituted';

(*b*) in sub-section (3), for the words "Third Schedule", the words "Fourth Schedule" shall be substituted.

9. Amendment of section.—In section 15 of the principal Act, for the words "Third Schedule" wherever they occur, the words "Fourth Schedule" shall be substituted.

10. Amendment of section 16.—In section 16 of the principal Act, in sub-section (1B), for the words "Third Schedule" at both the places where they occur, the words "Fourth Schedule" shall be substituted.

11. Amendment of section 21.—In section 21 of the principa Act, in the *Explanation*, for the words and figures "sections 22 23 and 25", the words and figures "sections 22, 23, 24 and 25" shall be substituted.

12. Amendment of section 23.—In section 23 of the principal Act, in sub-section (1), for the word and figures "section 25", the words and figures "section 24 and 25" shall be subetituted.

13. Insertion of new section 24.—After section 23 of the principal Act, the following section shall be inserted, namely :—

24. Audited accounts of banking companies not to be questioned:—(1) Where any dispute of the nature specified in section

22 between an employer, being a banking company, and its employees has been referred to the said authority under that section and during the course of proceedings the accounts of the banking company duly audited are produced before it, the said authority shall not permit any trade union or employees to question the correctness of such accounts, but the trade union or the employees may be permitted to obtain from the banking company such information as is necessary for verifying the amount of bonus due under this Act.

(2) Nothing contained in sub-section (1) shall enable the trade union or the employees to obtain any information which the banking company is not compelled to furnish under the provisions of section 34A of the Banking Regulation Act, 1949 (10 of 1949) ".

14. Amendment of section 27.—In section 27 of the principal Act, after sub-section (4), the following sub-section shall be inserted namely :—

"(5) Nothing contained in this section shall enable an Inspector to require a banking company to furnish or disclose any statement or information or to produce, or give inspection of, any of its books of account or other documents, which a banking company cannot be compelled to furnish, disclose, produce or give inspection of, under the provisions of section 34A of the Banking Regulation Act, 1949, (10 of 1949.)"

15. Amendment of section 31A.—In section 31A of the principal Act, in the proviso, for the words "Provided that", the words "Provided further that" shall be substituted and before the proviso as so amended, the following proviso shall be inserted, namely :—

"Provided that any such agreement or settlement whereby the employees relinquish their right to receive the minimum bonus under sub-section (2A) of section 10 shall be null and void in so far as it purports to deprive them of such right.".

16. Amendment of section 32.—In section 32 of the principal Act,—

(a) clause (vii) shall be omitted;

(b) in clause (ix),—

(i) sub-clause (ff) shall be omitted;

(ii) in sub-clause (g), after the words "final institution", the brackets and words "(other than a banking company)" shall be inserted.

17. Substitution of new section for section 34.- For section 34 of the principal Act, the following sections shall be substituted, namely :—

"34. Employees and employers not to be precluded from entering into agreements for grant of bonus under a different formula.—Nothing contained in this Act shall be construed to preclude employees employed in any establishment or class of establishments from

entering into agreement with their employer for granting them an amount of bonus under a formula which is different from that under this Act:

Provided that no such agreement shall have effect unless it is entered into with the previous approval of the appropriate Government:

Provided further that any such agreement whereby the employees relinquish their right to receive the minimum bonus under sub-section (2A) of section 10 shall be null and void in so far as it purports to deprive them of such right:

Provided also that such employees shall not be entitled to be paid bonus in excess of—

(a) 8.33 per cent of the salary or wage earned by them during the accounting year if the employer has no allocable surplus in the accounting year or the amount of such allocable surplus is only so much that; but for the provisions of sub-section (2A) of section 10, it would entitle the employees only to receive an amount of bonus which is less than the aforesaid percentage; or

(b) twenty per cent. of the salary or wage earned by them during the accounting year.

34A. Effect of laws and agreements in consistent with the Act.—Subject to the provisions of sections 31A and 34, the provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or in the terms of any award, agreement, settlement or contract of service.".

18. Amnedment of the First Schedule.—In the principal Act, the First Schedule shall be renumbered as the Second Schedule and,—

(a) in that Schedule as so renumbered—

(i) for the brackets, words and figure "(*See* section 4)", the brackets, words, figure and letter "[*See* section 4 (b)]" shall be substituted;

(ii) in column (2), against Item No. 2, for the entry "(d) Development rebate/Development allowance reserve.", the entry "(d) Development rebate/Investment allowance/Development allowance reserve," shall be substituted;

(b) before that Schedule as so renumbered, the following Schedule shall be inserted, namely :—

'THE FIRST SCHEDULE

[*See* section 4(*a*)]

COMPUTATION OF GROSS PROFITS

Accounting Year ending.....

Item No.	Particulars	Amount of sub-items	Amount of main, items	Remarks
		Rs.	Rs.	
*1.	*Net Profit* as shown in the Profit and Loss Account after making usual and necessary provisions.			
2.	*Add back* provision for :			
	(a) Bonus to employees			
	(b) Depreciation			
	(c) Development Rebate Resereve			*See* foot-note (I)
	(d) Any other reserves			*See* foot note (I)
	Total of Item No. 2	Rs.		
3.	*Add back* also :			
	(a) Bonus paid to employees in respect of previous accounting years			*See* foot-note (I)
	(b) The amount debited in respect of gratuity paidor payable to employees in excess of the aggregate of—			
	(i) the amount, if any, paid to, or provided for payment to, an approved gratuity fund ; and			

1	2	3	4
	(ii) the amount actually paid to employees on their retirement or on termination of their employment for any reason		
	(c) Donations in excess of the amount admissible for income-tax		
	(d) Captial expenditure (other than capital expenditure on scientifio research which is allowed as a deduction under any law for the time being in force relating to direct taxes) and capital losses (other than losses on sale of capitals asset on which depreciation has been allowed for Incometax).		*See* foot-note (I)
	(e) Any amount certified by the Reserve Bank of India in terms of sub-section (2)of section 34A of the Banking Regulation Act, 1949. (10 of 1949)		
	(f) Losses of, or expediture relating to any business situated outside India.		
	Total of Item No. 3	Rs.	

*Where the profit subject to taxation is shown in the Profit and Loss Account and the provision made for taxes on income is shown, the actual provision for taxes on income shall be deducted from the profit.

4. *Add also* income, profits or gains (if any) credited directly to published or disclosed reserves, *other than*—

1	2	3	4	5
	(i) capital receipts and capital profits (including profits on the sale of capital assets on which depreciation has not been allowed for income tax);			
	(ii) profits of, and receipts relating to, any business situated outside India;			
	(iii) income of foreign banking companies from investments outside India.			
	Net total of Item No. 4	Rs.		
5.	Total of Item Nos. 1, 2, 3 and 4.	Rs.		
6.	*Deduct* :			
	(a) Capital receipts and capital profits (other than profits on the sale of assets on which depreciation has been allowed for income-tax ..			*See* foot-note (2)
	(b) Profits of and receipts relating to any business situated outside India.			*See* foot-note (2)
	(c) Income of foreign banking companies from investments outside India.			*See* foot-note (2)
	(d) Expenditure or losses (if any) debited directly to published or disclosed reserves *other than*:—			
	(i) capital expenditure and capital losses (other than losses on sale of capital assets on which depreciation has not been allowed for income-tax);			

1	2	3	4
	(ii) losses of any business situated outside India.	Rs	Rs.
	(e) In the case of foreign banking companies proportionate administrative (overhead) expenses of Head Office allocable to Indian business.		See footnote(2)
	(f) Refund of any excess direct tax paid for previous accounting years and excess provision, if any of previous accounting years relating to bonus, depreciation, or development rebate, if written back.		See footnote (2)
	(g) Cash subsidy, if any, given by the Government or by any body corporate established by any law for the time being in force or by any other agency through budgetary grants, whether given directly or through any agency for specified purposes and the proceeds of which are reserved for such purposes.		See footnote (2)
	Total of Item No. 6	Rs.	
7	Grossprofits for purposes of bonus (Item No. 5 minus Item No. 6)	Rs.	

Explanation.—In sub-item (b) of item 3, "approved gratuity fund" has the same meaning assigned to it in clause (5) of section 2 of the Income-tax Act.

Foot-notes—

(1) If, and to the extent charged to Profit and Loss Account.

(2) If and to the extent, credited to Profit and Loss Account.

(3) In the proportion of Indian Gross Profit (Item No. 7) to Total World Gross Profit (as per Consolidated Profit and Loss Account, adjusted as in Item No. 2 above only).

19. **Amendment of the Second Schedule.**—In the principal Act, the Second Schedule shall be renumbered as the Third Schedule and in that Schedule as so renumbered,—

(a) in column (2), against Item No. I, for the word "Company", the words "Company, other than a banking company" shall be substituted ;

(b) after Item No. I and the entries relating thereto, the following item and entries shall be inserted, namely:—

Item No.	Particulars	Amount of sub-items	Amount of main items	Remarks
"2.	Banking company	(i) The dividends payable on its preference share capital for the accounting year calculated at the rate at which such dividends are payable;		
		(ii) 7.5 per cent. of its paid up equity share capital at the commencement of the accounting year;		
		(iii) 5 per cent. of its reserves shown in its balance-sheet as at the commencement of the accounting year, including any profits carried forward from the previous accounting year;		
		(iv) any sum which in respect of the accounting year, is transferred by it—		
		(a) to a reserve fund under sub-section (1) of section 17 of the Banking Regulation Act 1949 (10. of 1949) : or		
		(b) to any reserves in India in pursuance of any direction or advice given by the Reserve Bank of India,		
		Whichever is higher :		
		Provided that, where the banking company is a foreign company within the meaning of section 591 of the Companies Act, 1956, (1 of 1956) the amount to be deducted		

(1)	(2)	(3)
		under this Item shall be the aggregate of—
		(i) the dividends payable to its preference shareholders for the accounting year at the rate at which such dividends are payable on such amount as bears the same proportion to its total preference share capital as its total working funds in India bear to its total world working funds,
		(ii) 7.5 per cent. of such amount as bears the same proportion to its total paid up equity share capital as its total working funds in India bear to its total world working funds;
		(iii) 5 percent. of such amount as bears the same proportion to its total disclosed reserves as its total working funds in India bear to its total world working funds;
		(iv) any sum which, in respect of the accounting year, is deposited by it with the Reserve Bank of India under sub-clause (ii) of clause (l) of sub-section (2) of section 11 of the Banking Regulation Act, 1949, 10 of 1949 not exceeding the amount required under the aforesaid provision to be so deposited.";

(c) in the *Explanation*, for the figures, brackets and word "1 (iii) and 3 (ii)", the figures, brackets and word "1 (iii), 2 (iii) and 3 (ii)" shall be substituted.

20 Amendment of the Third Schedule.—In the principal Act, the Third Schedule shall be renumbered as the Fourth Schedule.

21. Repeal and saving.—(1) The Payment of Bonus (Amendment) Ordinance, 1977 9 of 1977) is hereby repealed.

(2) Notwithstanding such repeal anything done or any action taken under the principal Act, by virtue of the amendments thereto made by the said Ordinance shall be deemed to have been done or taken under the principal Act by virtue of the corresponding amendments thereto made by this Act.

GOVERNMENT OF KARNATAKA

LAW AND PARLIAMENTARY AFFAIRS SECRETARIAT

Notification No. LAW 15 LCA 78

Bangalore, dated 2nd February 1978.

Ordered that the Supreme Court (Number of Judges) Act, 1977 (No. 48 of 1977) published in Part II, Section 1 of the *Gazette of India, Extraordinary* dated 31st December 1977 be republished in the *Karnataka Gazette* for general information.

By Order and in the name of the President of India,

A. NEELAKANTARYA,
Under Secretary to Government,
Deptt. of Law and Parly Affairs.

43
Assented to on 31st December 1977 Act No. 48 of 1977.

THE SUPREME COURT (NUMBER OF JUDGES) AMENDMENT ACT, 1977

An

Act

further to amend the Supreme Court (Number of Judges) Act, 1956.

Be it enacted by Parliament in the Twenty-eighth Year of the Republic of India as follows :—

1. Short title.—This Act may be called the Supreme Court (Number of Judges) Amendment Act, 1977.

2. Amendment of Section 2.—In section 2 of the Supreme Court (Number of Judges) Act, 1956, (55 of 1956) for the word "thirteen" the word "seventeen" shall be substituted.